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VIA ELECTRONIC FILING

Honorable Gary R. Brown
United States District Court
Central Islip, New York 11722-9014

Re: T-Mobile Northeast LLC v. The Town of Hempstead, *et al.*
Case No. CV 11-00322 (JS)(ETB)

Dear Judge Brown:

We are counsel to the Plaintiff and Defendant in the above-referenced action. We write to make a joint request for a modification to the joint Proposed Discovery Plan filed by the parties on May 31, 2011 pursuant to the Court's February 8, 2011 order. As of the date of this letter, no Order has been entered by the Court approving the proposed dates set forth in the joint Proposed Discovery Plan.

After the parties filed their joint Proposed Discovery Plan on May 31, 2011, Plaintiff filed its Second Amended Complaint on July 5, 2011, which Defendant answered on August 4, 2011. On November 28, 2011, Plaintiff served its Rule 26(a)(2) Expert Disclosure on Defendant. Pursuant to Rule 26(a)(2)(D)(ii), Defendant's rebuttal expert disclosure, if any, would be due within 30 days after Plaintiff's disclosure, which would be December 28, 2011.¹ However, under the joint Proposed Discovery Plan, the proposed close of discovery is December 9, 2011. Given that this proposed discovery cutoff date would not allow for the parties to complete discovery, including the exchange of any rebuttal expert reports and the taking of any depositions, the parties respectfully request that the discovery cutoff date be modified. Further, because the joint Proposed Discovery Plan contemplated that the deadline for seeking approval to file any motion for summary judgment is 30 days after the discovery completion date, the parties respectfully request that this deadline also be modified. This is the parties' first request for a modification of the Discovery Plan. No trial date is yet scheduled in this action, and the requested modification would not otherwise adversely affect any other deadlines in this action.

¹ Defendant has requested, and Plaintiff consents to, an additional 15 days to serve its rebuttal expert report, if any, through and including January 12, 2012.

